



OFFICE OF THE
STUDENT
ADVOCATE

Knowing the Difference: 504 Plan or IEP



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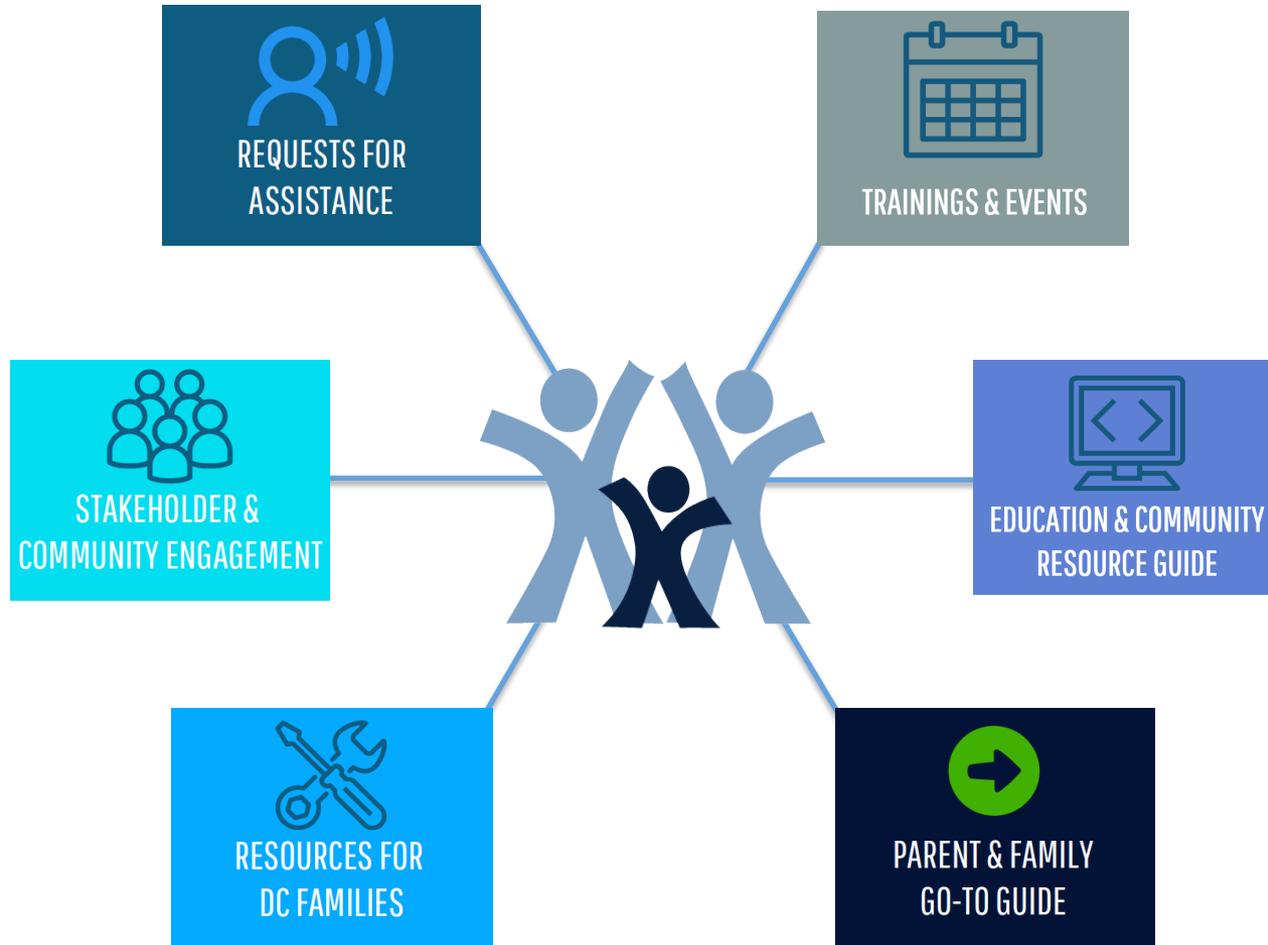


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Purpose of this Document

The purpose of this presentation is to provide quick and accessible information on some of the major difference between a 504 Plan and an IEP in an easy to understand format.

This document is only a supplemental reference.

It does not cover every aspect of relevant law or policy, nor should it serve as a replacement for reviewing applicable laws or speaking with an expert.

If you have specific questions, please contact us at **202.741.4692** or **student.advocate@dc.gov**. We would be happy to assist you and direct you to relevant resources.

What is Special Education?

"Special education is instruction that is specially designed to meet the unique needs of children with disabilities. Special education and related services are provided in public schools at no cost to parents and can include special instruction in the classroom, at home, in hospitals or institutions, or in other settings."

Overview of Special Education Law

Three federal laws guarantee the rights of students with disabilities:

1. Americans with Disabilities Act (ADA)

2. Section 504 of the Rehabilitation Act ("Section 504")



504 Plan

3. Individuals with Disabilities Education Act ("IDEA")



IEP

*DC also has local laws and regulations that provide additional rights to students with disabilities.

Section 504 At-a-Glance

Section 504 of the Rehabilitation Act, also known as Section 504, is a federal law that focuses on ensuring that the school provides children with disabilities or impairments the services and accommodations necessary in order to access everything that other children can access at school, including curriculum.

IDEA At-a-Glance

Individuals with Disabilities Education Act, also known as IDEA, is a federal law that focuses on ensuring that the school meets the needs of children with specific kinds of disabilities so that they make adequate academic progress based on what they know and can learn.

IEP Eligibility

Qualifying Disability Categories

1. Autism
2. Deaf-blindness
3. Deafness
4. Developmental Delay*
5. Emotional Disturbance
6. Hearing Impairment
7. Intellectual Disability
8. Multiple Disabilities
9. Orthopedic Impairment
10. Other Health Impairment
11. Specific Learning Disability
12. Speech or Language Impairment
13. Traumatic Brain Injury
14. Visual Impairment including Blindness

*DC recognizes developmental delay for children 3-7 only.

Section 504 & IDEA

At-a-Glance

Eligibility for Section 504 and IDEA

All Children

All Children
with disabilities

Section 504- Children with physical or mental impairments that substantially limit a major life function but who do not meet the requirements to qualify for an IEP. They receive a 504 plan.

IDEA- Children with disabilities that meet at least one of the 13 qualifying disability categories recognized by IDEA who need special education and related services. These children receive an IEP.

What is "FAPE"?

IDEA guarantees eligible students the right to FAPE, a Free Appropriate Public Education. Children eligible for a 504 plan or an IEP are entitled to FAPE.

For the education provided to meet FAPE requirements, it must be individualized to the student's needs and appropriate to help the student make meaningful progress.

504 Plan

or

IEP

What Is It?

A 504 Plan is a plan for how a child with a disability or impairment will be provided with a "Free Appropriate Public Education" to ensure a child has **the same access to the learning environment** as their non-impaired peers.

An IEP (Individualized Education Program) is a plan for how a child with a **qualifying** disability will be provided a "Free Appropriate Public Education" to ensure a child can make **meaningful educational progress**.

504 Plan

or

I E P

What Law Applies?

Section 504 of the Rehabilitation Act of 1973

This is a federal civil rights law to ensure students with disabilities aren't discriminated against.

Individuals with Disabilities in Education Act (IDEA)

This is a federal funding law to ensure states meet the needs of students with disabilities.

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Who is Eligible?

To get a 504 plan, there are two requirements:

1. a child has a disability or impairment (includes learning or attention issues)
2. disability impairs a major life activity that may interfere with the child's ability to learn/perform in a general education classroom

Section 504 is broader than IDEA. A child who doesn't qualify for an IEP might still be able to get a 504 plan.

To get an IEP, there are two requirements:

1. a child has one or more of the 13 specific disabilities (listed in IDEA)
2. disability affects the child's educational performance and/or ability to learn and benefit from the general education curriculum

Scenario 1

- Candace has ADHD. She performs on grade level and doesn't typically have difficulty with assignments. However, when she is stressed, it is hard for her to focus, and she doesn't perform as well.
- Her mom brings in a doctor's note that diagnoses her with ADHD and documents her accommodation needs. She needs many breaks and a very structured classroom in order to perform well and focus on her assignments.

Which would be best suited for Candace's needs, 504 or IEP?

Scenario 1

- The school finds her eligible for a **504 plan** because she has a disability that substantially impairs her ability to concentrate.
- Candace's needs are met by the 504 plan because it guarantees that she receive the accommodations ensuring her ADHD doesn't interfere with her ability to access her curriculum.

When she receives accommodations, she is able to fully access her curriculum and thrive.

Scenario 2

- Alexa has ADHD. Her mom brought in a doctor's note with her diagnosis. Despite numerous informal accommodations the school put in place, Alexa is still struggling to make progress in reading and math.
- The school evaluates Alexa, with her mom's permission, and finds out that she has difficulties understanding academic concepts as a result of her ADHD symptoms.

Which would be best suited for Alexa's needs, 504 or IEP?

Scenario 2

- ADHD is a disability that can qualify a student for an **IEP** under the "Other Health Impairment" disability category. Alexa's IEP team meets to determine that she qualifies for an IEP because her ADHD has an adverse impact on her education.
- Alexa needs specialized instruction and related services in order to make meaningful progress at school. Her needs are met by an IEP because even when she receives accommodations, she needs changes made to her curriculum.

Her academic progress will now be monitored against the academic goals set in the IEP to ensure she receives the right supports.

The Difference Is...

- If your child has been diagnosed with one or more of the 13 specific categories named in IDEA, AND that disability is shown to impact your child's ability to make meaningful academic progress, an IEP would make the most sense.
- If your child does not meet the criteria to have an IEP, but your child does have a disability that substantially impairs any major life activity (including but not limited to his or her ability to care for himself, walk, see, hear, speak, breathe, learn, work, eat, sleep, stand, life, bend, read, concentrate, think, or communicate) then your child should qualify for a 504 plan.

504 Plan

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Who Creates It?

A 504 plan is created by a team of people familiar with the child who understand evaluation data and service options.

May Include:

- child's parent
- general education teacher
- special education teacher
- school principal

An IEP is created by an IEP team. There are strict, legal requirements about participants.

Must Include:

- child's parent
- at least one general education teacher
- at least one special education teacher
- specialist to interpret evaluation results
- a district representative with authority over special education services

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Who Funds It?

While states don't receive additional funding for eligible students, the federal government can take funding away from programs (and schools) that don't comply.

Students receive these services at no charge.

States receive additional funding for eligible students. IDEA funds cannot be used to serve students with 504 plans.

Students receive these services at no charge.

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What's the Evaluation Process?

- The parent must consent to evaluations, but the school can provide accommodations **without a formal evaluation.**
- The evaluation must consider multiple forms of information.

- The parent **must** consent to evaluation before the school can evaluate the child.
- The evaluation must consider multiple forms of information.
- Schools must complete the evaluation and determine eligibility within 120 days of the parent's request.

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What About Parental Consent and Evaluations?

Parental consent is required to evaluate a child, but accommodations can be put in place without an evaluation (through a doctor's recommendation or discussion with parent and qualified professionals).

Parental consent is required to evaluate the child. (An evaluation must be done to determine eligibility.) Parents must consent before the child can be provided services in an IEP.

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What About Independent Evaluations?

There is no provision for funding of an independent evaluation, but LEAs can consider independent evaluations in placement decisions.

Parents may request that the LEA funds an independent evaluation, but the LEA is not required to.

LEAs who choose not to grant an independent evaluation request must file a due process complaint against the parent.

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What's In The Program/Plan?

May Include:

- specific accommodations, supports, or services
- names of who provide services
- name of person responsible for ensuring implementation of the plan

***504 plans are flexible, meaning that it can include many things an IEP includes; however, this flexibility also means that the school has discretion (with parent input) to decide what needs to be included in the plan.

Must Include:

- child's present levels of academic and functional performance
- annual education goals and how they're tracked
- services the child will receive
- timing of services (when, how long, how often)
- accommodations (changes to the learning environment)
- modifications (changes to what the child is expected to learn)
- time spent in general education v. special education classrooms

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How Are Parents Notified of Changes?

- Schools must notify parents about evaluation or "significant change" in placement.
- The notice does not have to be in writing, but schools can choose to do so.

- Schools must inform parents in writing of any changes before the changes are implemented.
- Written notice is required for any IEP meetings and evaluations.

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How Is the Plan/Program Affected By School Discipline?

Section 504 does not require that students are provided access to their education while temporarily placed out of school for behavior infractions.

If a student with a 504 plan is suspended for more than 10 days in a school year, the school must hold a manifestation determination meeting to determine whether the behavior that led to the suspension is a manifestation of the child's disability.

A 504 plan ensures that students are not put out of school because of their disability.

IDEA requires that students continue to receive a Free Appropriate Public Education (FAPE) while temporarily placed out of school for behavior infractions.

If a student with an IEP is suspended for more than 10 days in a school year, the school must hold a manifestation determination meeting to determine whether the behavior that led to the suspension is a manifestation of the child's disability.

An IEP ensures that students are not put out of school because of their disability.

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How Are Disputes Resolved?

Section 504 requires that schools offer an impartial hearing to parents who have complaints, but leaves it to the school district to design and implement the hearing process.

Parents can also make complaints to DC Office of Human Rights (DCOHR) or Department of Education Office of Civil Rights (OCR).

Section 504 does not require that states implement a due process, state complaint, or mediation procedure.

IDEA requires that parents have access to the following options for dispute resolution*:

- due process complaint
- state complaint
- mediation

Parents can also make complaints to DC Office of Human Rights (DCOHR) or Department of Education Office of Civil Rights (OCR).

*"Stay put" rights protect students by keeping services in place during a dispute.

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Any disability that substantially limits a major life activity can qualify

Follows a student after K-12

More flexible

vs.

Broader dispute resolution protections

Minimum requirements for what must be included

Must have a qualifying disability that requires special education

